

Community Integration Of Mental Health Clients: Court Defines Legal Standards.

After the patient died in private mental hospital located on the grounds of a state mental hospital, the family sued the California Department of Mental Health, various state officials and the private mental hospital.

The family's lawsuit claimed their family member's placement in the private mental hospital was wrong, that he should have been placed in a community setting rather than in a closed mental hospital.

The lawsuit also alleged negligent care in the mental hospital. It was alleged he was abused and neglected, that his lithium levels were not monitored and that his lithium dosages were not correct.

The Court's Ruling

The California Court of Appeal ruled the patient was not a suitable candidate for community placement. Therefore, according to the court, the Department of Mental Health did not violate his rights by placing him in a closed private institutional facility, nor did the private facility violate his rights by accepting and treating him.

However, at the same time the court extensively reviewed the general legal rights of disabled persons *vis a vis* community integration *versus* institutional placement.

Americans With Disabilities Act

The US Americans With Disabilities Act (ADA) applies to public services provided by public agencies (Title II), as well as employment (Title I) and public accommodations (Title III). States also have their own anti-discrimination laws.

No public agency can discriminate against a qualified individual with a disability by reason of the person's disability.

The courts attach a lot of importance to the social policies behind the ADA. Therefore, the courts look not just for overt and intentional discrimination against disabled persons compared to the non-disabled, but also for more subtle forms of discrimination, such as discrimination between disabled persons and groups of disabled persons based on the their levels of disability.

Unjustified isolation of the disabled in closed institutions violates the Integration Mandate and amounts to disability discrimination.

Title II of the Americans With Disabilities Act contains an Integration Mandate.

That means that public agencies which provide services or administer programs where services are provided by other public agencies or by the private sector must provide services to the disabled in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

A placement decision must be based on an actual assessment of the disabled person's capabilities and needs, rather than presumptions, patronizing attitudes, unfounded fears and generalized stereotypes about disabled persons.

Persons with psychiatric or developmental disabilities who are suitable candidates for community placement have the absolute right to be placed in community settings rather than, as in the past, being warehoused in state mental hospitals.

CALIFORNIA COURT OF APPEAL, 2000.

Disabled persons whose needs may be more difficult or costly to meet cannot bear the brunt of discrimination. Every disabled person is entitled to the full benefit he or she can obtain from public programs designed to aid the disabled.

The Integration Mandate

According to the court, the social policies behind ADA support the Integration Mandate. Disabled persons are entitled to receive care and treatment in the most community-integrated setting their capabilities and needs will permit.

Failing to place a disabled person in a community setting, placing the person instead in a more restrictive, isolated, institutionalized setting is a violation of the disabled person's civil rights, the court pointed out.

Assessment Is The Key

The court ruled the professional judgment of the state's own treatment professionals determines whether community-based treatment is appropriate for a particular individual, taking into account whether the individual actually wants it.

The court ruled it is not up to the family to decide for a person with a psychiatric, cognitive or developmental disability whether the person should or should not be living and receiving care in a community setting. That was the basis for ruling against the family in this case.

In and of itself, the family not agreeing with their family member being placed in an institution is legally irrelevant to whether the placement violated the ADA, the court pointed out.

The court said it is inappropriate to terminate an institutional placement for a person unable to handle or to benefit from a community setting.

Community placements are also not appropriate for clients who make their own reasoned decisions they do not want it, the court noted. In this case the bottom line was that a community placement would not have been appropriate for this patient, the court concluded. **Black v. Department of Mental Health**, 100 Cal. Rptr. 2d 39 (Cal. App., 2000).